

U.S. Patent Application No.: 10/799,703

Attorney Docket No.: 57983.000158

Client Reference No.: 16603ROUS01U

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: :
 : Group Art Unit: 2616
 Jozef Babiarz :
 : Examiner: Raj K. Jain
 Appln. No.: 10/799,703 :
 : Confirmation No.: 8971
 Filed: March 15, 2004 :
 : Customer No.: 21967
 For: TECHNIQUE FOR ADMISSION :
 CONTROL OF PACKET FLOWS :

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed May 23, 2008. In response to the Final Office Action dated January 24, 2008, rejecting pending claims 1-19, Appellant respectfully requests that the Board of Patent Appeals and Interferences reconsider and withdraw the rejection of record, and allow the pending claims, which are attached hereto as Appendix A.

REAL PARTY IN INTEREST

The Appellant, Jozef Babiarz, is the Applicant in the above-identified patent application. The Appellant has assigned

his entire interest in the above-identified patent application to Nortel Networks Limited, 2351 Boulevard Alfred-Nobel, St. Laurent, Quebec, H4S 2A9 Canada.

RELATED APPEALS AND INTERFERENCES

The Appellant, the Appellant's legal representative, and the Assignee are not aware of any other appeals or interferences which will directly affect, be directly affected by, or have a bearing on the Board's decision in this Appeal.

STATUS OF CLAIMS

Claims 1-19 are pending in the above-identified patent application. Claims 1-19 were finally rejected in an Office Action dated January 24, 2008. The final rejection of Claims 1-19 is hereby appealed.

Claims 1-11 and 14-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hadi Salim et al. (U.S. Patent No. 6,625,118) in view of Simcoe (U.S. Patent No. 7,035,220).

Claims 12 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hadi Salim et al. (U.S. Patent No. 6,625,118) in view of Simcoe (U.S. Patent No. 7,035,220), further in view of Davis et al. (U.S. Patent No. 6,483,805).

STATUS OF AMENDMENTS

No amendments have been filed subsequent to the final rejection of claims 1-19 in the Office Action dated January 24, 2008.

SUMMARY OF CLAIMED SUBJECT MATTER

The claimed invention, as set forth in claim 1, and as described and shown in the specification and Figures 1-8 of the above-identified patent application, respectively, is directed to a method for admission control of packet flows in a network (e.g., see Abstract; Figure 1; paragraphs [0007], [0028], [0029]). The method may comprise initiating a flow of packets across the network (e.g., see Figure 1; paragraph [0030]). The method may also comprise determining a flow rate associated with a plurality of packets entering or exiting the network (e.g., see Abstract; Figure 1; paragraphs [0007], [0031], [0039]). The method may further comprise marking at least one predetermined bit in at least one of the plurality of packets if the flow rate is greater than a predetermined rate (e.g., see Abstract; Figure 1; paragraphs [0007], [0035], [0039]). The method may still further comprise controlling the initiated flow of packets across the network based at least in part on the marking of the at least one predetermined bit in the at least one of the

plurality of packets (e.g., see Abstract; Figure 1; paragraphs [0007], [0037])).

The claimed invention, as set forth in claim 18, and as described and shown in the specification and Figures 1-8 of the above-identified patent application, respectively, is directed to a system for admission control of packet flows (e.g., see Abstract; Figures 1 and 3; paragraphs [0007], [0016], [0028], [0042])). The system may comprise at least one terminal that initiates a flow of packets across a network (e.g., see Figures 1 and 3; paragraph [0030], [0042], [0043])). The system may also comprise at least one network element that: determines a flow rate associated with a plurality of packets entering or exiting the network (e.g., see Abstract; Figures 1 and 3; paragraphs [0007], [0016], [0031], [0039], [0042], [0043])), and marks at least one predetermined bit in at least one of the plurality of packets if the flow rate is greater than a predetermined rate (e.g., see Abstract; Figures 1 and 3; paragraphs [0007], [0016], [0035], [0039], [0042], [0043])). The system may further comprise an admission control module that controls the initiated flow of packets across the network based at least in part on the marking of the at least one predetermined bit in the at least one of the plurality of packets (e.g., see Abstract; Figures 1 and 3; paragraphs [0007], [0016], [0037], [0042], [0043])).

The claimed invention, as set forth in claim 18, and as described and shown in the specification and Figures 1-8 of the above-identified patent application, respectively, is directed to system for admission control of packet flows (e.g., see Abstract; Figures 1 and 3; paragraphs [0007], [0017], [0028], [0042]). The system may comprise means for initiating a flow of packets across the network (e.g., see Figures 1 and 3; paragraph [0030], [0042], [0043]). The system may also comprise means for determining a flow rate associated with a plurality of packets entering or exiting the network (e.g., see Abstract; Figures 1 and 3; paragraphs [0007], [0017], [0031], [0039], [0042], [0043]). The system may further comprise means for marking at least one predetermined bit in at least one of the plurality of packets if the flow rate is greater than a predetermined rate (e.g., see Abstract; Figures 1 and 3; paragraphs [0007], [0017], [0035], [0039], [0042], [0043]). The system may still further comprise means for controlling the initiated flow of packets across the network based at least in part on the marking of the at least one predetermined bit in the at least one of the plurality of packets (e.g., see Abstract; Figures 1 and 3; paragraphs [0007], [0017], [0037], [0042], [0043]).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-11 and 14-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hadi Salim et al. (U.S. Patent No. 6,625,118) in view of Simcoe (U.S. Patent No. 7,035,220).

Claims 12 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hadi Salim et al. (U.S. Patent No. 6,625,118) in view of Simcoe (U.S. Patent No. 7,035,220) and further in view of Davis et al. (U.S. Patent No. 6,483,805).

ARGUMENT

The Appellant respectfully appeals the decision of the Examiner to finally reject claims 1-19 of the above-identified patent application. As discussed below, it is respectfully submitted that the Examiner has failed to establish a prima facie case of obviousness against the appealed claims.

I. **THE EXAMINER HAS FAILED TO ESTABLISH A PRIMA FACIE CASE OF OBVIOUSNESS AGAINST CLAIMS 1-11 AND 14-19**

The Examiner asserts that claims 1-11 and 14-19 are unpatentable over U.S. Patent No. 6,625,118 to Hadi Salim et al. ("Hadi Salim") in view of U.S. Patent No. 7,035,220 to Simcoe ("Simcoe") under 35 U.S.C. § 103(a).

Under 35 U.S.C. § 103, the Patent Office bears the burden of establishing a prima facie case of obviousness. In re Fine,

837 F.2d 1071, 1074 (Fed. Cir. 1988). There are four separate factual inquiries to consider in making an obviousness determination: (1) the scope and content of the prior art; (2) the level of ordinary skill in the field of the invention; (3) the differences between the claimed invention and the prior art; and (4) the existence of any objective evidence, or "secondary considerations," of non-obviousness. Graham v. John Deere Co., 383 U.S. 1, 17-18 (1966); see also KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727 (2007). An "expansive and flexible approach" should be applied when determining obviousness based on a combination of prior art references. KSR, 127 S. Ct. at 1739. However, a claimed invention combining multiple known elements is not rendered obvious simply because each element was known independently in the prior art. Id. at 1741. Rather, there must still be some "reason that would have prompted" a person of ordinary skill in the art to combine the elements in the specific way that he or she did. Id.; In re Icon Health & Fitness, Inc., 496 F.3d 1374, 1380 (Fed. Cir. 2007). Also, modification of a prior art reference may be obvious only if there exists a reason that would have prompted a person of ordinary skill to make the change. KSR, 127 S. Ct. at 1740-41.

Regarding claim 1, the Examiner asserts that Hadi Salim discloses "determining a flow rate associated with a plurality

of packets entering or exiting the network," as presently claimed. Appellant respectfully disagrees. In contrast, Hadi Salim merely discloses a packet flow control parameter generated by a packet flow control parameter generator in response to packet reading means for determining if the packet has been marked according to the Internet Protocol by any of the nodes through which the packet passed. Nowhere, does Hadi Salim disclose, or even suggest, "determining a flow rate associated with a plurality of packets entering or exiting the network," as presently claimed. At best, Hadi Salim merely discloses detecting incipient congestion at a node (e.g., a router). Appellant respectfully submits that detecting incipient congestion at a node of Hadi Salim cannot be interpreted as a disclosure of "determining a flow rate associated with a plurality of packets entering or exiting the network," as presently claimed. Specifically, Hadi Salim discloses detecting incipient congestion at a node using a random early detection (RED) process, wherein the RED process monitors average queue lengths using a low pass filter. See, e.g., column 7, lines 7-13. Therefore, Appellant respectfully submits that Hadi Salim merely discloses monitoring average queue lengths to detect incipient congestion at a node and fails to disclose, or even suggest, "determining a flow rate associated with a plurality of

packets entering or exiting the network," as presently claimed. Additionally, Hadi Salim discloses "preferably the packet flow control parameter comprises an offered window size, for indicating to the source node how many packets can be sent before the source should wait for an acknowledgement from the receiver." See, e.g., column 3, lines 33-37. Therefore, the packet flow control parameter of Hadi Salim determines how many packets can be sent and not "determining a flow rate associated with a plurality of packets entering or exiting the network," as presently claimed.

Also, the Examiner asserts that Hadi Salim discloses "marking at least one predetermined bit in at least one of the plurality of packets if the flow rate is greater than a predetermined rate," as presently claimed. Appellant respectfully disagrees. In contrast, Hadi Salim merely discloses if the congestion at router A is less severe, "it can mark the packet by setting the CE bit in the IP header." See, e.g., column 6, lines 6-9. Also, Hadi Salim discloses detecting congestion by determining "if the average queue length is greater than a minimum threshold." See, e.g., column 7, lines 23-24. Therefore, Appellant respectfully submits that Hadi Salim fails to disclose, or even suggest, "marking at least one predetermined bit in at least one of the plurality of packets if

the flow rate is greater than a predetermined rate," as presently claimed. Additionally, Hadi Salim discloses, at intermediate nodes, a flow is allocated a share of the capacity, and, "if the allocation is exceeded, a flag is set in each packet." See, e.g., column 1, lines 55-57. Thus, Appellant respectfully submits that nowhere does Hadi Salim disclose, or even suggest, allocating a share of the capacity is a disclosure of "a predetermined rate," as presently claimed.

In addition, the Examiner asserts, and Appellant agrees, that Hadi Salim fails to disclose, or even suggest, "initiating a flow packets across the network," as presently claimed. However, the Examiner asserts that Simcoe discloses "initiating a flow of packets across the network," and it would have been obvious at the time the invention was made to incorporate the teachings of Simcoe with Hadi Salim. Appellant respectfully disagrees. Indeed, Appellant respectfully submits that Simcoe teaches away from Hadi Salim. Specifically, Appellant respectfully submits that Simcoe discloses intermediate nodes 210, and each intermediate node 210 "comprises a plurality of interconnected resources, including a processor 212, a memory 214 and an input/output device, such as a network interface 218." See, e.g., column 6, lines 46-49. In contrast, Hadi Salim discloses intermediate node A comprises a router which may

mark a packet by setting the CE bit in the IP header. Therefore, Appellant respectfully submits that it would not have been obvious at the time the invention was made to incorporate the intermediate nodes of Simcoe for the intermediate nodes of Hadi Salim.

In view of the foregoing, it is respectfully submitted that Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, the claimed invention as set forth in claim 1. Thus, it is further respectfully submitted that claim 1 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Regarding claims 2-11 and 14-17, these claims are dependent upon independent claim 1. Thus, since independent claim 1 should be allowable as discussed above, claims 2-11 and 14-17 should also be allowable at least by virtue of their dependency on independent claim 1. Moreover, claims 2-11 and 14-17 recite additional features which are not disclosed, or even suggested, by Hadi Salim and Simcoe, either alone or in combination. Thus, these claims are separately patentable over Hadi Salim and Simcoe, either alone or in combination, for at least the additional reasons stated below.

Claim 2 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or

even suggest, that the network comprises a plurality of network elements, and the flow rate is determined at a first network element, where the first network element is part of an access link of the network, as presently claimed. Thus, is it respectfully submitted that claim 2 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 3 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, that the at least one of the plurality of packets comprises at least one signaling packet, as presently claimed. Thus, is it respectfully submitted that claim 3 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 4 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, that the at least one signaling packet originates from an end terminal outside the network, as presently claimed. Thus, is it respectfully submitted that claim 4 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 5 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, that information associated with the at least one predetermined bit in the at least one signaling packet is communicated to the end terminal, as presently claimed. Thus,

is it respectfully submitted that claim 5 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 6 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, that the end terminal echoes information associated with the at least one predetermined bit in the at least one signaling packet in a transmission to the network, as presently claimed. Thus, is it respectfully submitted that claim 6 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 7 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, cancelling the initiated flow of packets across the network if the at least one predetermined bit in the at least one of the plurality of packets is marked, as presently claimed. Thus, is it respectfully submitted that claim 7 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 8 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, that the initiated flow of packets across the network is controlled by an entity that controls the network, as presently claimed. Thus, is it respectfully submitted that

claim 8 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 9 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, that the control of the initiated flow of packets across the network is based at least in part on priorities or importance of the plurality of packets and the initiated flow of packets, as presently claimed. Thus, is it respectfully submitted that claim 9 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 10 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, that the plurality of packets comprise real-time packets, as presently claimed. Thus, is it respectfully submitted that claim 10 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 11 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, that the plurality of packets comprise Internet Protocol (IP) packets, as presently claimed. Thus, is it respectfully submitted that claim 11 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 14 is separately patentable because Hadi Salim and

Simcoe, either alone or in combination, fail to disclose, or even suggest, that the predetermined rate is based on a network bandwidth allocated for the plurality of packets, as presently claimed. Thus, is it respectfully submitted that claim 14 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 15 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, that the predetermined rate is raised to a value above the allocated network bandwidth for a predetermined period of time, as presently claimed. Thus, is it respectfully submitted that claim 15 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 16 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, at least one signal embodied in at least one carrier wave for transmitting a computer program of instructions configured to be readable by at least one processor for instructing the at least one processor to execute a computer process for performing the method as recited in claim 1, as presently claimed. Thus, is it respectfully submitted that claim 16 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 17 is separately patentable because Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, at least one processor readable carrier for storing a computer program of instructions configured to be readable by at least one processor for instructing the at least one processor to execute a computer process for performing the method as recited in claim 1, as presently claimed. Thus, it is respectfully submitted that claim 17 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Regarding claims 18 and 19, these claims recite subject matter related to claim 1. Thus, the arguments set forth above with respect to claim 1 are equally applicable to claims 18 and 19. Accordingly, it is respectfully submitted that claims 18 and 19 are allowable over Hadi Salim in view of Simcoe for the same reasons as set forth above with respect to claim 1.

In view of the foregoing, it is respectfully submitted that Hadi Salim and Simcoe, either alone or in combination, fail to disclose, or even suggest, the elements of claims 1-11 and 14-19. Accordingly, it is respectfully submitted that claims 1-11 and 14-19 are not unpatentable over Hadi Salim and Simcoe, either alone or in combination, and that the Examiner has failed in his duty to establish at least a prima facie case of obviousness against claims 1-11 and 14-19. Therefore, it is

respectfully requested that the obviousness rejection of claims 1-11 and 14-19 be withdrawn.

II. THE EXAMINER HAS FAILED TO ESTABLISH A PRIMA FACIE CASE OF OBVIOUSNESS AGAINST CLAIMS 12 AND 13

The Examiner asserts that claims 12 and 13 are unpatentable over U.S. Patent No. 6,625,118 to Hadi Salim et al. ("Hadi Salim") in view of U.S. Patent No. 7,035,220 to Simcoe ("Simcoe") and further in view of U.S. Patent No. 6,483,805 to Davies et al. ("Davies") under 35 U.S.C. § 103(a).

It is respectfully submitted that the aforementioned obviousness rejection of claims 12 and 13 has become moot in view of the deficiencies of the primary references (i.e., Hadi Salim and Simcoe) as discussed above with respect to independent claim 1. That is, claims 12 and 13 are dependent upon independent claim 1 and thus inherently incorporate all of the limitations of independent claim 1. Also, the secondary reference (i.e., Davies) fails to disclose, or even suggest, the deficiencies of the primary references as discussed above with respect to independent claim 1. Indeed, the Examiner does not even assert such. Thus, the combination of the secondary reference with the primary references also fails to disclose, or even suggest, the deficiencies of the primary references as discussed above with respect to independent claim 1.

Accordingly, claims 12 and 13 should be allowable over the combination of the secondary reference with the primary references at least by virtue of their dependency on independent claim 1. Moreover, claims 12 and 13 recite additional features which are not disclosed, or even suggested, by Hadi Salim, Simcoe, and Davies, either alone or in combination. Thus, these claims are separately patentable over Hadi Salim, Simcoe, and Davies, either alone or in combination, for at least the additional reasons stated below.

Claim 12 is separately patentable because Hadi Salim, Simcoe, and Davies, either alone or in combination, fail to disclose, or even suggest, that the plurality of packets comprise voice over IP (VoIP) packets, as presently claimed. Thus, is it respectfully submitted that claim 12 is allowable over Hadi Salim and Simcoe, either alone or in combination.

Claim 13 is separately patentable because Hadi Salim, Simcoe, and Davies, either alone or in combination, fail to disclose, or even suggest, that the at least one predetermined bit is part of a Differentiated Services field in an IP header of the at least one of the plurality of packets, as presently claimed. Thus, is it respectfully submitted that claim 13 is allowable over Hadi Salim and Simcoe, either alone or in combination.

In view of the foregoing, it is respectfully submitted that Hadi Salim, Simcoe, and Davies, either alone or in combination, fail to disclose, or even suggest, the elements of claims 12 and 13. Accordingly, it is respectfully submitted that claims 12 and 13 are not unpatentable over Hadi Salim, Simcoe, and Davies, either alone or in combination, and that the Examiner has failed in his duty to establish at least a prima facie case of obviousness against claims 12 and 13. Therefore, it is respectfully requested that the obviousness rejection of claims 12 and 13 be withdrawn.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the Examiner has failed to establish a prima facie case of obviousness against the appealed claims. Thus, it is respectfully submitted that the final rejection of claims 1-19 is improper and the reversal of same is clearly in order and respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to

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Deposit Account 50-0206, and please credit any excess fees to
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Respectfully submitted,

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Date: July 23, 2008

CLAIMS APPENDIX

1 (Previously Presented). A method for admission control of packet flows in a network, the method comprising:

initiating a flow of packets across the network;

determining a flow rate associated with a plurality of packets entering or exiting the network;

marking at least one predetermined bit in at least one of the plurality of packets if the flow rate is greater than a predetermined rate; and

controlling the initiated flow of packets across the network based at least in part on the marking of the at least one predetermined bit in the at least one of the plurality of packets.

2 (Previously Presented). The method according to claim 1, wherein

the network comprises a plurality of network elements, and

the flow rate is determined at a first network element, where the first network element is part of an access link of the network.

3 (Original). The method according to claim 1, where the at least one of the plurality of packets comprises at least one

signaling packet.

4 (Original). The method according to claim 3, where the at least one signaling packet originates from an end terminal outside the network.

5 (Original). The method according to claim 4, where information associated with the at least one predetermined bit in the at least one signaling packet is communicated to the end terminal.

6 (Original). The method according to claim 4, where the end terminal echoes information associated with the at least one predetermined bit in the at least one signaling packet in a transmission to the network.

7 (Previously Presented). The method according to claim 1 further comprising cancelling the initiated flow of packets across the network if the at least one predetermined bit in the at least one of the plurality of packets is marked.

8 (Currently Amended). The method according to claim 1, wherein the initiated flow of packets across the network is controlled

by an entity that controls the network.

9 (Previously Presented). The method according to claim 1, wherein the control of the initiated flow of packets across the network is based at least in part on priorities or importance of the plurality of packets and the initiated flow of packets.

10 (Previously Presented). The method according to claim 1, wherein the plurality of packets comprise real-time packets.

11 (Previously Presented). The method according to claim 1, wherein the plurality of packets comprise Internet Protocol (IP) packets.

12 (Previously Presented). The method according to claim 11, wherein the plurality of packets comprise voice over IP (VoIP) packets.

13 (Previously Presented). The method according to claim 11, wherein the at least one predetermined bit is part of a Differentiated Services field in an IP header of the at least one of the plurality of packets.

14 (Previously Presented). The method according to claim 1, wherein the predetermined rate is based on a network bandwidth allocated for the plurality of packets.

15 (Previously Presented). The method according to claim 14, wherein the predetermined rate is raised to a value above the allocated network bandwidth for a predetermined period of time.

16 (Original). At least one signal embodied in at least one carrier wave for transmitting a computer program of instructions configured to be readable by at least one processor for instructing the at least one processor to execute a computer process for performing the method as recited in claim 1.

17 (Original). At least one processor readable carrier for storing a computer program of instructions configured to be readable by at least one processor for instructing the at least one processor to execute a computer process for performing the method as recited in claim 1.

18 (Presented Presently). A system for admission control of packet flows, the system comprising:

at least one terminal that initiates a flow of packets

across a network;

at least one network element that:

determines a flow rate associated with a plurality of packets entering or exiting the network, and

marks at least one predetermined bit in at least one of the plurality of packets if the flow rate is greater than a predetermined rate; and

an admission control module that controls the initiated flow of packets across the network based at least in part on the marking of the at least one predetermined bit in the at least one of the plurality of packets.

19 (Previously Presented). A system for admission control of packet flows, the system comprising:

means for initiating a flow of packets across the network;

means for determining a flow rate associated with a plurality of packets entering or exiting the network;

means for marking at least one predetermined bit in at least one of the plurality of packets if the flow rate is greater than a predetermined rate; and

means for controlling the initiated flow of packets across the network based at least in part on the marking of the at least one predetermined bit in the at least one of the plurality

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of packets.

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EVIDENCE APPENDIX

[NONE]

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RELATED PLEADINGS APPENDIX

[NONE]